

FOR YOUR INFORMATION

April 6, 2007

To: Mayor and Members of City Council

From: Milton Dohoney, Jr., City Manager

Subject: Administrative Hearing Begins April 16 on City of Cincinnati's Challenge of the Northern Kentucky Sanitation District No. 1 Eastern Regional Wastewater Treatment Plant

This provides an update on the issues surrounding the Eastern Regional Wastewater Treatment Plant (ERWWTP) that is now under construction near Alexandria, Kentucky.

The City of Cincinnati and Greater Cincinnati Water Works continue to have many serious concerns regarding the Northern Kentucky Sanitation District No.1's (SD#1) planned discharge from this wastewater treatment plant. Under SD#1's Regional Facility Plan Update (Update), the District proposes to have the ERWWTP discharge its effluent into Brush Creek, which leads into Twelvemile Creek, running a total of a little over five miles to the Ohio River. The discharge will enter the Ohio River roughly eleven miles upstream of the Greater Cincinnati Water Works drinking water intakes. Cincinnati has not contested the need for the new wastewater treatment plant; rather we have continued to object to the location of the discharge upstream of its water intakes and the level of treatment of the effluent.

We continue to work toward a regional solution and have agreed to consider all viable options. We have proposed several possible resolutions including an offer to pay up to \$8M to move the discharge to the Licking River. We have also made attempts to engage SD#1 in a formal mediation process. While we are eager to resolve this issue, we must continue to pursue available remedies through the legal and administrative processes.

In August 2006, the Kentucky Environmental & Public Protection Cabinet (Cabinet) approved SD#1's discharge plan. Following Kentucky law, Cincinnati filed a petition with the Cabinet's Office of Administrative Hearings to challenge the Cabinet's approval. An administrative hearing on the challenge is scheduled to begin on April 16, 2007. The primary issue in this challenge is the adequacy of the Cabinet's consideration of the impact of the effluent and discharge location on downstream drinking water users.

Cincinnati expressed its concerns about the Update and the Cabinet's environmental review in written comments submitted to the Cabinet and to SD#1. Among other issues, Cincinnati is concerned that the proposed treatment methods will not remove a variety of synthetic organic contaminants and will not inactivate or remove certain pathogens, including the protozoan parasite *Cryptosporidium*.

These pollutants will be transported down Brush Creek and Twelvemile Creek. Some of the pollutants may settle and then be released all at once when heavy rains cause the streams to swell. Studies using red dye performed by the United States Geological Survey show that, once the pollutants enter the Ohio River, they will tend to hug the Kentucky bank as they travel downstream toward the Cincinnati drinking water intakes.

The administrative hearing is a trial-like proceeding overseen by a Hearing Officer who plays the dual role of judge and jury. Cincinnati, the Cabinet, and SD#1 will call and question witnesses under oath and will introduce evidence.

The Hearing Officer will review the testimony and evidence and make conclusions about the facts and the law related to the matter. The Hearing Officer will submit a Report for review by the Secretary of the Environmental & Public Protection Cabinet. The parties will have an opportunity to respond to the Report; then the Secretary will render a final order. We expect the Hearing Officer to provide his Report in early June 2007.

Additional information regarding this matter is available at GCWW's internet web site www.cincinnati-oh.gov/gcww under "Features, Protecting GCWW's Source Water – The Ohio River."

This memorandum is for information purposes only; no Council action is required.

Copy: David E. Rager, Director, Greater Cincinnati Water Works